

### **REMARKS**

Applicants' representatives thank the Examiner for the courtesy of a telephone interview conducted on April 14, 2005. The present response address is substantive points discussed during the telephone interview. Accordingly, the instant response is believed to constitute a complete written statement of the reasons presented in the interview as warranting a favorable action, as required by 37 C.F.R. §1.133.

As discussed in the interview, in the instant response, all of the independent claims, with the exception of claim 47, have been cancelled or rewritten to depend from claim 47. The remaining dependent claims in the application have also been cancelled or amended to depend from claim 47. Applicants reserve the right to pursue claims similar or identical to the claims as pending prior to amendment herein in one or more applications claim priority to the instant application.

Claim 47 has been amended to recite a multicomponent device comprising a first unit and a second unit, where the first and second units together define a first articulating joint such that the two units which define the first articulating joint can move in three dimensions relative to each other. Claim 47 has also been amended to recite replacing the first unit of the first device with a third unit to form a second device, such that the units together define a second articulating joint wherein the two units which define the second articulating joint can move in three dimensions relative to each other.

The claim also recites delivering a therapeutic agent to a treatment site with the device both in its first configuration, where the first articulating joint is defined by the first and second units, and then in its second configuration, where the second articulating joint is defined by the second and third units. Thus, claim 47 more clearly captures the aspect of the invention in which, during surgery, after a first use during the surgical procedure, the device is re-configured by replacing one unit with another unit and then the device is further used during the surgical procedure. Replacement of a unit occurs via connection to another unit at an articulating joint in which the various units can move in three dimensions relative to each other. Nowhere is this seen in any of the prior art of record, as discussed with the Examiner on March 14, 2005.

Support for this amendment can be found in the specification, for example, on page 6, lines 9-12, or on page 5, lines 24-28. Accordingly, no new matter has been added.

Claims 1, 6-15, 19, 30, 31, 34, 36, 39, 40, 47, and 53-55 are now pending for examination.

#### Objections to the Specification

The specification has been objected to as failing to provide proper antecedent basis for claimed subject matter.

While Applicants disagree with the Patent Office, in view of the amendments herein, it is believed that this objection is now moot. Withdrawal of this objection is therefore respectfully requested.

#### Rejections Under 35 U.S.C. §112

Claim 16 has been rejected under 35 U.S.C. §112, ¶2, as failing to particularly point out and distinctly claim subject matter which the Applicants regards as the invention.

As claim 16 has been cancelled, it is believed that this rejection is now moot. Withdrawal of the rejection is therefore respectfully requested.

#### Rejections Under 35 U.S.C. §102(b) in View of Tilton

While not completely clear to the Applicants, it appears that claims that 1, 3, 5-8, and 12-57 have been rejected under 35 U.S.C. §102(b) as being anticipated by Tilton, U.S. Patent No. 5,766,157 ("Tilton").

It is not seen where in Tilton is there a disclosure or a suggestion of a device comprising a first unit and a second unit, where the first and second units together define a first articulating joint such that the two units which define the first articulating joint can move in three dimensions relative to each other. It is also not seen where in Tilton is there a device including a unit capable of being interchanged, disclosed or suggested.

Figs. 10 and 11 of Tilton appear to be a hinge joint, not a ball and socket joint, and the units in Tilton appear to be irremovably attached to each other, as is described by the Patent Office. With reference to Fig. 10, articulating joint 37 is described as being allowed to "move left to right and angulate relative to the central longitudinal axis of external tubular member 25 (Col. 5, lines 60-61)." The member 25 and grasping portion 31 are hinged about pinned

connection 40, which allows portion 31 to pivot upon tubular member 25 (Col. 5, lines 63-65). Thus, Tilton teaches a hinge joint, not an articulating joint in which the units defining the joint can move in three dimensions relative to each other. Moreover, nowhere is it disclosed or suggested that pinned connection 40 can be removed to allow member 25 and grasping portion 31 to be separated, or any other arrangement in which various units of the device can be disassembled and reassembled during surgery, as captured by independent claim 47, as amended.

For at least these reasons, it is believed that independent claim 47 is not anticipated by Tilton, and it is therefore respectfully requested that the rejection of this claim be withdrawn. The remaining claims have either been cancelled or rewritten to depend from independent claim 47, and are believed to be allowable for at least these reasons. Withdrawal of the rejection of these claims is also respectfully requested.

Rejections Under 35 U.S.C. §102(e) in View of Cragg

Claims 1, 3, 9-11 and 15 have been rejected under 35 U.S.C. §102(e) as being anticipated by Cragg, et al., U.S. Patent No. 6,146,373 ("Cragg")

In view of the above-described amendments to the claims, it is believed that the above rejection has been rendered moot, as independent claim 47 has not been rejected in view of Cragg. Thus, it is respectfully requested that this rejection be withdrawn.

Rejections Under 35 U.S.C. §102(e) in View of Miraki

Claims 1 and 15 have been rejected under 35 U.S.C. §102(e) as being anticipated by Miraki, et al., U.S. Patent No. 6,248,092 ("Miraki")

In view of the above-described amendments to the claims, it is believed that this rejection has been rendered moot, as independent claim 47 has not been rejected in view of Miraki. Thus, it is respectfully requested that this rejection be withdrawn.

Rejections Under 35 U.S.C. §102(b) in View of Lampropoulos

Claims 1, 12, 13, 47-48 have been rejected under 35 U.S.C. §102(b) as being anticipated by Lampropoulos, et al., U.S. Patent No. 5,817,072 ("Lampropoulos")

It is not seen where in Lampropoulos is there a disclosure or a suggestion of an articulating joint defined by a first and a second unit such that the two units can move in three dimensions relative to each other. It is also not seen where in Lampropoulos is there a disclosure or a suggestion of interchangeable units, interchangeable during surgery, as captured by independent claim 47. Instead, it appears that Lampropoulos teaches a first device 10, e.g., a catheter, which can be passed through and removed from a cannula 12. It is not seen where Lampropoulos discloses that the first device is articulated, let alone articulated at an articulating joint defined by a first and a second unit such that the two units can move in three dimensions relative to each other. Moreover, and the Patent Office has further noted that "the first device is a single component device."

Accordingly, it is believed that claim 47 is patentable in view of Lampropoulos, and it is respectfully requested that this rejection be withdrawn. The remaining claims have either been cancelled or amended to depend from claim 47, and are believed to be allowable for at least these reasons. Withdrawal of the rejection of these claims is also respectfully requested.

Rejections Under 35 U.S.C. §102(b) in View of Ryan

Claims 1, 3, 5-12, and 14-58 have been rejected under 35 U.S.C. §102(b) as being anticipated by Ryan, et al., U.S. Patent No. 5,693,031 ("Ryan")

Applicants do not see where in Ryan is there a disclosure or a suggestion of an articulating joint defined by a first unit and a second unit such that the two units which define the first articulating joint can move in three dimensions relative to each other. Ryan discloses a hinge joint (i.e., Fig. 2q), but nowhere discloses that the hinge joint is capable of moving in three dimensions. Rather, Ryan discloses that the hinge joint includes a hinge pin 376 that supports a swing arm 368 and a torsion spring 366. The swing arm 368 includes a ball joint 369 which is used to latch the swing arm in place (Col. 9, lines 35-54). It is also not seen where in Ryan is there a disclosure or a suggestion that the units can be interchanged. Instead, the hinge joint in Ryan appears to be enclosed within a housing.

Thus, it is believed that claim 47 is not anticipated by Ryan, and it is respectfully requested that the rejection of this claim be withdrawn. The remaining claims have either been

cancelled or amended to depend from claim 47, and are believed to be patentable for at least these reasons. Withdrawal of the rejection of these claims is also respectfully requested.

Rejections Under 35 U.S.C. §102(b) in view of Moenning

Claims 1, 3, 5-12 and 14-58 have been rejected under 35 U.S.C. §102(b) as being anticipated by Moenning, et al., U.S. Patent No. 5,865,817 ("Moenning")

It is not seen where in Moenning is there a disclosure or a suggestion of an articulating joint defined by a first unit and a second unit such that the two units can move in three dimensions relative to each other. While Moenning describes a ball-shaped instrument holder, there is no disclosure or suggestion that ball-shaped instrument holder is movable in three dimensions. To the contrary, a ball-shaped instrument holder is described as being "rotatable" relative to a retainer portion (Col. 9, lines 58-62). Moenning actually teaches away from an articulating joint that can move in three dimensions. In Moenning, medical instrument 20 is passed through a lumen 90 into the body 18, as is shown in Fig. 1. If medical instrument 20 was free to rotate in three dimensions, it could not pass through lumen 90 to enter body 18, as medical instrument 20 is constrained to be within lumen 90. Moreover, it is not seen where in Moenning is there a disclosure or a suggestion that the first unit of the first device is replaceable with a third unit, such that the first unit and the third unit together defines a second articulating joint such that the two units which define the second articulating joint can move in three dimensions relative to each other, and wherein such replacement can take place during surgery, as captured by independent claim 47.

Accordingly, it is believed that claim 47 is patentable in view Moenning, and it is respectfully requested that this rejection be withdrawn. The remaining claims have been canceled or amended to depend from claim 47, and are believed to also be allowable for at least the above-mentioned reasons. Withdrawal of the rejection of these claims is also respectfully requested.

CONCLUSION

In view of the foregoing amendments and remarks, this application should now be in condition for allowance. A notice to this effect is respectfully requested. If the Examiner

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believes, after this amendment, that the application is not in condition for allowance, the Examiner is requested to call the Applicants' representatives at the telephone number listed below.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicants hereby request any necessary extension of time.

If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825.

Respectfully submitted,

By:



Timothy J. Oyer/Ph.D., Reg. No. 36,628  
Tani Chen, Sc.D., Reg. No. 52,728  
Wolf, Greenfield & Sacks, P.C.  
600 Atlantic Avenue  
Boston, Massachusetts 02210-2206  
Telephone: (617) 646-8000

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